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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,151	04/09/2004	Gregory A. Piccionelli	39003.815US01	1181
7590 07/18/2007				
Michael M. Gerardi Esq. 28876 Woodcrest Lake Drive Menifee, CA 92584				
			EXAMINER UTAMA, ROBERT J	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 07/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,151

Applicant(s)

PICCIONELLI ET AL.

Examiner

Robert J. Utama

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the language of the abstract is the same language that can be found in the language of claim 1. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claim 1 and 3-6 rejected under 35 U.S.C. 102(e) as being anticipated by Shea US 7,056,265.**

Claim 1: Shea provides a teaching of obtaining advise pertaining to performance of an exercise, the method comprising the steps of: accessing a central site via a network (see col. 5:3-20); visiting a physical location related to a fitness-related activity (see FIG 13A item 304 and col.

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21:1-11); providing information identifying the location to the central site (see col. 10:50 - col. 11:5) and receiving advise via the network from the central site pertaining to the fitness related activity (see FIG 16D, FIG. 12, col. 17:27-45).

Claim 3: Shea provides a teaching of obtaining advise pertaining to performance of an exercise, the method comprising the steps of: accessing a central site via a network (see col. 5:3-20); visiting a physical location at which at least one exercise apparatus is present (see FIG 13A item 304 and col. 21:1-11); providing information identifying the location to the central site (see col. 10:50 - col. 11:5); providing information identifying at least one exercise apparatus present at the location to the central site (see FIG. 13A item 302a and 302b) and receiving advise via the network from the central site pertaining the use of the exercise apparatus (see FIG 16D, FIG. 12, col. 17:27-45).

Claim 4: Shea provides a teaching of obtaining advise pertaining to performance of an exercise, the method comprising the steps of: accessing a physical location associated with an activity network (see FIG 13A item 304 and col. 21:1-11); accessing a central site via a network (see col. 5:3-20); providing information identifying the location to the central site (see FIG. 13A item 302a and 302b) and receiving advise via the network from the central site pertaining to the activity (see FIG 16D, FIG. 12, col. 17:27-45).

Claim 5: Shea provides a teaching where the method is related to a fitness related activity (col. 15:45-53)

Claim 6: Shea provides a teaching where the advice pertain to the performance of the activity (see col. 16:10-20).

5. Claim 2 rejected under 35 U.S.C. 102(e) as being anticipated by Mault

2002/0055857

Claim 2: Mault provides a teaching of obtaining advise pertaining to consumption of at least one food or beverage, the method comprising of: accessing a central site via a network

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(paragraph 40); visiting a physical location at which at least one food or beverage is served (see paragraph 39); providing information identifying the location to the central site (see paragraph 41); receiving advise via the network from the central site pertaining to consumption of at least one food or beverage served at the location (see paragraph 39).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Shea US 7,056,265 in view of Primus

Claim 7: Shea does not provide an explicit teaching where the advice that discourage engagement in an activity. However, Primus provide a teaching of advice that discourage engagement in an activity (see Page 2 bullet number 2-4). Therefore, it would have been obvious for one of ordinary skilled in the art to include the feature of advice that discourage engagement in an activity, as taught by Primus, into the system of Shea because it would enable the system to instruct user by discouraging bad practice/technique during the exercise that can lead to injury (see Page 2 bullet number 2-4).

Conclusion

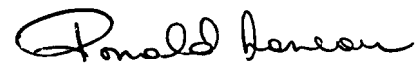
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU



RONALD LANEAU
PRIMARY EXAMINER
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7/16/07